

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

TRANSCRIPT OF RECORD.

Court of Appeals, District of Columbia

OCTOBER TERM, 1907.

No. 1822.

513

ELIZABETH A. BRUNTHAVER, APPELLANT.

vs.

ELIZABETH R. TALTY.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA

FILED AUGUST 19, 1907.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

OCTOBER TERM, 1907.

No. 1822.

ELIZABETH A. BRUNTHAVER, APPELLANT,

vs.

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APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

No. 1822.

ELIZABETH A. BRUNTHAVER, Appellant,

vs.

ELIZABETH R. TALTY.

a Supreme Court of the District of Columbia.

In Equity. No. 26648.

ELIZABETH A. BRUNTHAVER, Complainant,

vs.

ELIZABETH R. TALTY, Defendant.

UNITED STATES OF AMERICA, *District of Columbia*, ss:

Be it remembered, that in the Supreme Court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 *Bill.*

Filed October 29, 1906.

In the Supreme Court of the District of Columbia.

In Equity. No. 26648.

ELIZABETH A. BRUNTHAVER, Complainant,

vs.

ELIZABETH R. TALTY, Defendant.

The complainant, Elizabeth A. Brunthaver, respectfully shows to the Court as follows:

1. That she is a citizen of the United States and a resident of the District of Columbia and brings this suit in her own right as hereinafter shown.

2. That the defendant, Elizabeth R. Talty, is a citizen of the United States and a resident of the District of Columbia and is sued in her own right as hereinafter shown.

3. That complainant is the owner, and is now in possession, of a certain parcel of property in the City of Washington, District of Columbia, known as parts of original lots 3 and 4 in square 321, numbered 503 Twelfth Street, N. W., and more particularly described as follows: Beginning for the same on the line of Twelfth Street West at a point distant twenty-five feet North from the South West corner of said lot four and running thence North along said Street twenty-four feet, thence east seventy-two feet to a three foot alley, thence south along said alley twenty-four feet, and
2 thence west seventy-two feet to the line of said street and place of beginning.

4. That the said property was acquired from William J. Wallace by deed dated May 17, 1902, and recorded May 21, 1902, in Liber 2663, folio 257, one of the land records for the District of Columbia and he acquired the same by deed dated January 28, 1896, and recorded January 31, 1896, in Liber 2079, folio 433, one of said land records. That the said property was formerly owned by Elizabeth B. Wallace, who acquired title from the heirs of Elizabeth Nalley by deed dated June 4, 1877, and recorded July 30, 1877, in Liber 858, folio 438, one of the land records for the District of Columbia. That the said Elizabeth Nalley acquired title to said property from Lewis Johnson by deed dated March 19, 1840, and recorded September 1, 1840, in W. B. 78, folio 425, one of the said land records. That Lewis Johnson acquired title from Benjamin Waters and George Scott by deed dated July 16, 1838, and recorded July 25, 1838, in W. B. 70, folio 343, one of the said land records, wherein said property was described by metes and bounds as follows, to wit: Beginning 25 feet from Corner of E and 12th Streets, thence North along the line of 12th Street 25 feet, thence at right angles with 12th Street 72 feet to a three foot alley, which goes down to E Street and is to be forever kept open for the benefit of said property, thence South along the line of said alley 25 feet, thence westwardly 25 feet at right angles with said alley 72 feet to Twelfth Street and the beginning. That the said Waters and Scott acquired title from

3 William B. Kibby by deed dated September 15, 1835, and recorded September 16, 1835, in Liber W. B. 55, folio 85, one of the said land records, wherein said property was described as beginning 3 feet west of a point 25 feet from E Street North, in a line drawn perpendicularly to the line of said street running North through center of lot 3, thence North 24 feet, West 13 feet to the eastern boundary line of ground heretofore conveyed by Arthur Waring to said Waters and Scott, thence South 24 feet to the Southern boundary line of the last mentioned piece of ground, thence East 13 feet to beginning, with right and privilege to use an alley 3 feet wide to be kept open forever by said Kibby, which shall run along the west side of a line from front to rear of said lot 3 and running through its center and shall extend from line of E Street 49 feet North.

5. That the defendant is the owner in fee simple of parts of lots 3 and 4 in Square 321 and numbered 505 Twelfth Street, now occupied by tenants, situated in the District of Columbia, adjacent on

the North to the property of the complainant, described as follows, to wit: Beginning at the Northwest corner of said lot 4 and running thence East 75 feet more or less to a line drawn North and South through the center of said lot 3, thence South on said lot 25 feet, thence West to 12th Street 75 feet more or less, and thence North on said street 25 feet to the beginning together with the rights, easements, and privileges. That defendant acquired title through her husband John Talty, who acquired the property from Rebecca E. Cryer, by deed dated January 4, 1889, recorded January 7, 1889, in Liber 1363, folio 171, one of the said land records. That

4 Rebecca E. Cryer acquired title from William H. Ward, *et al.*, by deed dated April 19, 1876, and recorded April 21, 1876, in Liber 818, folio 93, one of the said land records. That the defendant's predecessors in title acquired the said property from George M. Davis by deed dated September 27, 1853, and recorded October 1, 1853, in Liber J. A. S. 64, folio 15, one of said records, describing the said property and granting the free use and enjoyment forever of an alley 3 feet wide running from the southeast corner of the lot of land thereby conveyed south upon the eastern side of the center of lot 3 to E Street. That George M. Davis acquired title by deed from William B. Kibbey dated June 29, 1835, and recorded July 1, 1835, in Liber W. B. 54, folio 203, one of said land records, including the free use and enjoyment forever of a certain alley 3 feet wide running from southeast corner of the lot of land thereby conveyed south upon the western side of the central line of lot 3 to E Street North. That the said William B. Kibbey acquired title from Bradley and Catlett by deed dated April 9, 1835, recorded April 17, 1835, in Liber W. B. 53, folio 129 one of said land records, including right and privilege to use an alley 3 feet wide to be kept open forever by the said grantors which said alley ran along the west side of a line drawn from front to rear of said lot 3 and running through its center and extending from the line of E Street to the southern boundary line of said land.

6. That the right and privilege to the use and enjoyment of an alley three feet wide to be kept open forever and extending North

5 25 feet from E Street was granted as an easement to complainant's property by deed dated April 9, 1835, and recorded April 17, 1835, Liber W. B. 53, folio 129, one of the said land records. This right and privilege was extended to the owner of defendant's property by deed dated June 29, 1835, and recorded July 1, 1835, in W. B. 54, folio 203, one of the said land records. This right was further extended by the owner of defendant's property at that time to the property to the north of her by deed dated November 23, 1868, and recorded November 30, 1868, in Liber D. No. 1, folio 358, one of said land records.

7. That the result of the divers and mesne conveyances of the aforesaid lots was that an alley three feet wide was created at the rear, and for the benefit, of the four lots fronting on Twelfth Street. Said alley was about 75 feet in length and ran along the west of the center line drawn through said lot 3 from north to south and opened into E Street. That the said Rebecca E. Cryer acquired, from the

owner of the lot to the immediate north of the premises of the defendant, the alley privilege over the rear three feet of her own lot by the full width thereof, by deed dated June 16, 1876, and recorded June 22, 1876, in Liber 822, folio 372, one of the said land records.

8. That at the time of the acquisition of the defendant's property by the said Rebecca E. Cryer, the said lot was improved by a brick building on the front or extreme western portion, and, upon information and belief, complainant alleges that shortly thereafter, to wit, 1876, she commenced and erected a brick building on the rear portion of said lot covering the entire depth and extending
6 entirely over the rear three feet, which had theretofore been reserved for an alley for the benefit of the property adjacent on the North. That the southern wall of the said building was erected by the said Rebecca E. Cryer so that its center was on the dividing line between the property now owned by the complainant and defendant and it is still standing, and complainant alleges it is a party wall. That no door or opening of any kind was cut in said party-wall leading from said building into the alley running south to E Street, nor was there then, nor is there now any indication or evidence of any nature that it was ever intended to place an opening there, said wall being a blank brick wall.

9. That in the second story of the said building, Rebecca E. Cryer without right or authority constructed a window measuring about 4 by 8 feet looking to the southward immediately over the said alley and the property now owned by complainant, and extending about thirteen inches westward beyond the west line of the alley on the property of complainant. There were also set in the first and second story of said wall, at the same time, overlooking the property now owned by complainant, without right or authority, four ventilators about one foot square, which freely admit light and air and serve as an outlook over and into the rear yard of complainant's property. That said openings in said wall greatly impair its strength and render it unfit for a party wall.

10. That after, and by reason of, the erection of the wall aforesaid, the said Rebecca E. Cryer and her grantees and tenants abandoned the use and enjoyment of the said alley leading into
7 E Street and never thereafter used, occupied, or made any claim whatsoever to it, or any right therein, until about April 1903, when the defendant without right or authority cut an opening in the aforesaid southern wall of her property leading into said alley and placed a door therein and then began for the first time in about twenty-seven years to use the said alley notwithstanding the fact that vigorous protests and objections were made at the time by the complainant. That the said door was cut in said wall so as to extend three inches to the west of the western line of said alley over on the property of complainant. That the defendant's tenants are now using said alley for egress and ingress from and to the defendant's property.

11. That said property is now occupied by a tenant of defendant who is a candy manufacturer. Said tenant runs his sales department in the front of said building and his candy factory in the rear

from which nauseating fumes and disagreeable odors constantly arise and are blown through the openings aforesaid over into the premises of complainant occupied by her as a residence thereby creating a great nuisance. Said alley is also frequently used by the employes of said tenant passing in and out as well as for the purpose of receiving the raw materials needed by said candy manufacturer in his said business. Such use of said alley not only interferes with complainant's right to enjoy it, but constitutes a great annoyance to complainant in the enjoyment of her own property.

12. That the complainant and those through whom she claims
8 accepted the erection of the said wall and the consequent abandonment and non-user of the alley as an evidence of permanent abandonment by the owners of said lot to the north and relying on such conditions they became the purchasers of premises No. 503 Twelfth Street.

13. That complainant's predecessors in title also relying on the conditions above enumerated entered upon and improved said alley by laying it with brick and it was also used for the placing therein of a coal bin for many years, to wit, fifteen. That complainant and the owner of the property adjoining complainant on the south erected and maintained a gate at the mouth of said alley at E Street which was always kept closed and secured by lock and only the complainant and the owner of property to the south had the key thereto, and they excluded therefrom the defendant and her predecessors in title, all of which facts were known to the defendant and her predecessors in title.

14. That complainant and those through whom she claims, since to wit: 1876 to 1903, have been in actual, open and notorious, possession of said alley, hostile to the defendant and those through whom she claims, and complainant alleges that she and her predecessors in title have paid the taxes on said property since, to wit: 1877.

15. That complainant is advised and so charges that Rebecca E. Cryer by reason of the erection of said wall without an opening into the alley abandoned and extinguished whatever right she had therein and that no right whatever passed to her grantee and now rests in the defendant to resume the use of said alley for any purpose. That said Rebecca E. Cryer by her actions in the premises permitted
9 others to rely thereon and to purchase said property with the inference that she had abandoned all rights therein. That this complainant at time of her acquirement of title to said property had no knowledge that there ever was an alley to the rear of No. 505 Twelfth Street or that the owner thereof ever had or claimed any right to the use of the alley to the rear of complainant's property.

16. That complainant is advised and so charges that the defendant has no right to maintain the said ventilators in the party wall between the property of complainant and defendant; nor the window overlooking the said property and the alley; nor the door leading into the alley; nor has she any right to construct and maintain said window encroaching thirteen inches on complainant's

property; nor the door encroaching three inches on complainant's property.

17. That the maintenance of said openings on complainant's property as aforesaid by the defendant greatly interferes with the complainant's use and enjoyment of her said property and deprives her of many benefits that she otherwise would have. It interferes with the privacy of her rear yard and diminishes its proper use. It also impairs the value of the said property and depreciates its worth. That the said window and ventilators materially weaken the wall wherein they are constructed and render it unfit for use as a party wall. That unless the defendant, her agents and tenants are restrained in the manner hereinafter prayed, complainant will suffer great and irreparable injury in her property rights for which she has no plain adequate and complete remedy at law.

Premises considered complainant prays:

10 1. That process of this Court issue directing the defendant, Elizabeth R. Talty, to enter her appearance herein by a day certain and answer the exigencies of this bill.

2. That this Court grant a temporary injunction and thereafter a perpetual injunction prohibiting the defendant, her agents and tenants from using the said alley for any purpose or in any way interfering with the complainant in her use and enjoyment of the same.

3. That this Court grant a mandatory injunction compelling the defendant to permanently close said openings in said south wall with brick and to render such parts strong as other parts of said wall so that the entire southern wall shall be a solid party wall.

4. That complainant may have such other and further relief as to this Court may seem proper.

ELIZABETH A. BRUNTHAVER, *Complainant.*

WILSON & BARKSDALE,
Solicitors for Complainant.

Elizabeth A. Brunthaver on oath says she has read the foregoing bill of complaint by her subscribed and knows the contents thereof; that the statements therein made of her personal knowledge are true and those made upon information and belief she believes to be true.

ELIZABETH A. BRUNTHAVER,

Subscribed and sworn to before me this 29th day of October,
A. D. 1906.

[SEAL.]

JOSEPH R. FAGUE,
Notary Public.

11

Answer.

Filed January 11, 1907.

In the Supreme Court of the District of Columbia.

No. 26648. Eq. Doc. 59.

ELIZABETH A. BRUNTHAVER

vs.

ELIZABETH R. TALTY.

The defendant, for answer to so much and such parts of the bill of complaint in the above entitled cause filed as she is advised it is necessary or material for her to make answer unto, answering, says:

1-5. She admits the allegations of the first and second paragraphs of the bill, and, for the purposes of this suit, the allegations of the third, fourth and fifth paragraphs of the bill.

6-9. She admits, for the purposes of this suit, the allegations of the sixth, seventh, eighth and ninth paragraphs of the bill, except as hereinafter stated. She is advised and believes that the "result" of the conveyances referred to in the seventh paragraph of the bill is a conclusion of law, and she is not required to answer the allegations of the bill in this particular. She denies that the center of the brick wall mentioned in the eighth paragraph is, or was, located upon the dividing line between the properties of complainant and defend-

12 ant, and, also, that the said wall is a party wall. She asserts, on the contrary, that if the said wall encroaches to any extent whatever upon complainant's property, the encroachment is less than half an inch, and that said wall has stood in its present position for more than fifteen years last past, to wit, for about thirty years, during all of which time it has been used and claimed by the defendant and those under whom she claims as their own property, openly, notoriously, continuously and exclusively, and in a manner hostile and adverse to all the world. She further asserts that she caused a door to be cut in said wall, as hereafter set out, and, as she is advised and believes, and therefore avers, it is immaterial whether or not any indication or evidence of an intention to make such an opening existed prior to so doing, her right to use the said alley, at any time when she might find it necessary, convenient or desirable to do so, being a matter of public record. She admits that Rebecca E. Cryer placed a window and four ventilators in the said wall, but denies that the said Rebecca E. Cryer did so without right. She also denies that the said openings in any way impair the strength of said wall, as, also, that the wall was ever used or intended to be used as a party wall. Said ventilators and openings have been maintained in said wall, and used and enjoyed by the defendant, and those under whom she claims, for a long period of time, to wit, for a period of twenty-seven years or more last past, under claim of right, openly, notoriously, continuously and ex-

clusively, by hostile adverse possession against all the world, and she is advised and believes, and therefore avers that, by reason of the premises, she is now vested with a good, perfect and inde-
13 feasible fee simple title to all of the land upon which the said wall stands, even if any part thereof was originally mistakenly placed upon land which was then owned by those under whom complainant claims title, and that it is immaterial whether or not the strength of the said wall is impaired by the said doors or other openings, so long as injury to the property of the complainant is neither done nor threatened thereby; and she avers that there is no such injury or threatened injury to the property of the complainant.

10. Defendant denies that she or those under whom she claims have abandoned their right to the use or enjoyment of the alley as alleged in the tenth paragraph of the bill. She admits that, in or about the month of April, 1903, she cut an opening in the southern wall of her property for the purpose of ingress and egress to and from said alley, and placed a door therein, but she denies that she did so without right or authority, and, on the contrary, asserts that she was acting wholly within her rights in so doing. She also denies that the said door encroaches upon complainant's land to the extent of three inches, or to any extent, and, on the contrary, asserts that the said alley, as actually laid out and used, is more than three feet wide, to wit, about three feet nine inches, and that, for a long space of time, to wit, from about the year 1835 until the month of April, 1903, it was maintained at that width, openly, notoriously, continuously, exclusively, and in the hostile adverse possession of defendant, those under whom she claims, and the other persons
14 entitled to the use of such alley, as set out in the third, fourth and fifth paragraphs of the bill.

In or about the month of April, 1903, when defendant opened the door in the southern wall of her property as already explained, complainant tore down the fence forming the western line of said alley, and which separated complainant's property therefrom, since which time she has placed in the ground three or four boards, presumably for the purpose of marking the dividing line between her said property and the said alleyway, or what she intends to claim as such dividing line, but which boards are in fact placed some distance east of the true division line, and are located in said alleyway.

11. Defendant admits that she has rented her property above described to a candy manufacturer, who conducts his business of manufacturing and selling candy upon the said premises. She has no information, knowledge or belief that fumes and odors, nauseating, disagreeable or otherwise, are blown through the said openings in the southern wall of said building, but is advised and believes, and therefore avers, that, even if the allegations of the bill in this behalf be true, they constitute no cause of action against her. Nor is she informed whether the said tenant or his employees use the said alleyway for the purposes of ingress and egress or of receiving raw materials, as alleged, but if these allegations of the bill are true, she avers that her said tenant is simply and rightfully using said alley

15 for the purposes for which it was designed. She denies, upon information and belief, that the use of the alley by defendant's said tenant interferes with complainant's right to enjoy it or constitutes an annoyance to her, and she is advised and believes, and therefore avers, that, even were the allegations of the bill in this behalf true, they constitute no cause of action against this defendant.

12. Defendant reiterates her denial that her right to use the said alleyway has ever been abandoned. She had no knowledge that the complainant or anyone else bought the property described in the third paragraph of the bill upon the faith of an assumption of such abandonment as alleged, but, if so, she avers that no obligation was imposed upon her to protect complainant or those through whom she claims from the folly of their unjustified assumptions in this behalf, the right of this defendant and of those under whom she claims having been constantly shown by the land records of the District of Columbia.

13-17. Defendant denies that the complainant, those through whom she claims, or anyone else, has been, since 1876, or for any time, in actual, open or notorious possession of said alley, hostile to the right of this defendant, or those through whom she claims to its use. She also denies that complainant or those through whom she claims used the said alley for the placing of a coal-bin therein for fifteen years, or for any period. She has no information as to whether or not the complainant or those through whom she claims paved the said alley, or paid taxes thereon, but is advised and believes, and therefore avers that it is immaterial whether they did so or not, and that these facts, if true, constitute no foundation for the relief prayed in the bill. She further denies that 16 complainant and the owner of the property adjoining on the south erected or maintained a gate at the mouth of the alley, at "E" street, which gate was kept closed or secured by lock, and that they, or either of them, ever excluded the defendant or her predecessors in title from said alley, or that the allegations of the bill in this behalf, if true, constitute any ground of suit as against her. She is advised and believes, and therefore avers, that the remaining allegations of the fifteenth, sixteenth and seventeenth paragraphs of the bill, except in so far as they have been answered, are conclusions of law, to which she is not required to make answer.

And, having fully answered, the defendant prays that she may be hence dismissed with her reasonable costs.

ELIZABETH R. TALTY.

J. J. DARLINGTON,
W. C. SULLIVAN, *Solicitors*.

DISTRICT OF COLUMBIA, ss:

I, Elizabeth R. Talty, on oath say that I have read the foregoing answer by me subscribed, and know the contents thereof, that the allegations therein set forth as of my personal knowledge are true,

and that those set forth upon information and belief I believe to be true.

ELIZABETH R. TALTY.

Subscribed and sworn to before me this 11th day of January,
A. D. 1907.

[SEAL.]

IRWIN H. LINTON,
Notary Public.

17

Replication.

Filed January 15, 1907.

In the Supreme Court of the District of Columbia.

In Equity. No. 26648.

ELIZABETH A. BRUNTHAVER, Complainant,

vs.

ELIZABETH R. TALTY, Defendant.

The Complainant hereby joins issue with the Defendant upon her answer.

WILSON & BARKSDALE,
Solicitors for Complainant.

Stipulation of Counsel for Hearing.

Filed April 10, 1907.

In the Supreme Court of the District of Columbia.

Equity. No. 26648.

ELIZABETH A. BRUNTHAVER

vs.

ELIZABETH R. TALTY.

It is stipulated by and between counsel for the parties to this cause that in lieu of testimony said cause shall be set down for hearing at the May Term, 1907, upon the pleadings filed in said cause and the Surveyors Plat of Survey filed herewith and marked "Exhibit A"; and that the measurements contained on said plat are accurate, in so far as this suit is concerned, and for no other purpose.

WILSON & BARKSDALE,
Solicitors for Complainant.

J. J. DARLINGTON,
W. C. SULLIVAN,
Solicitors for Defendant.

(Here follows plat marked p. 18.)

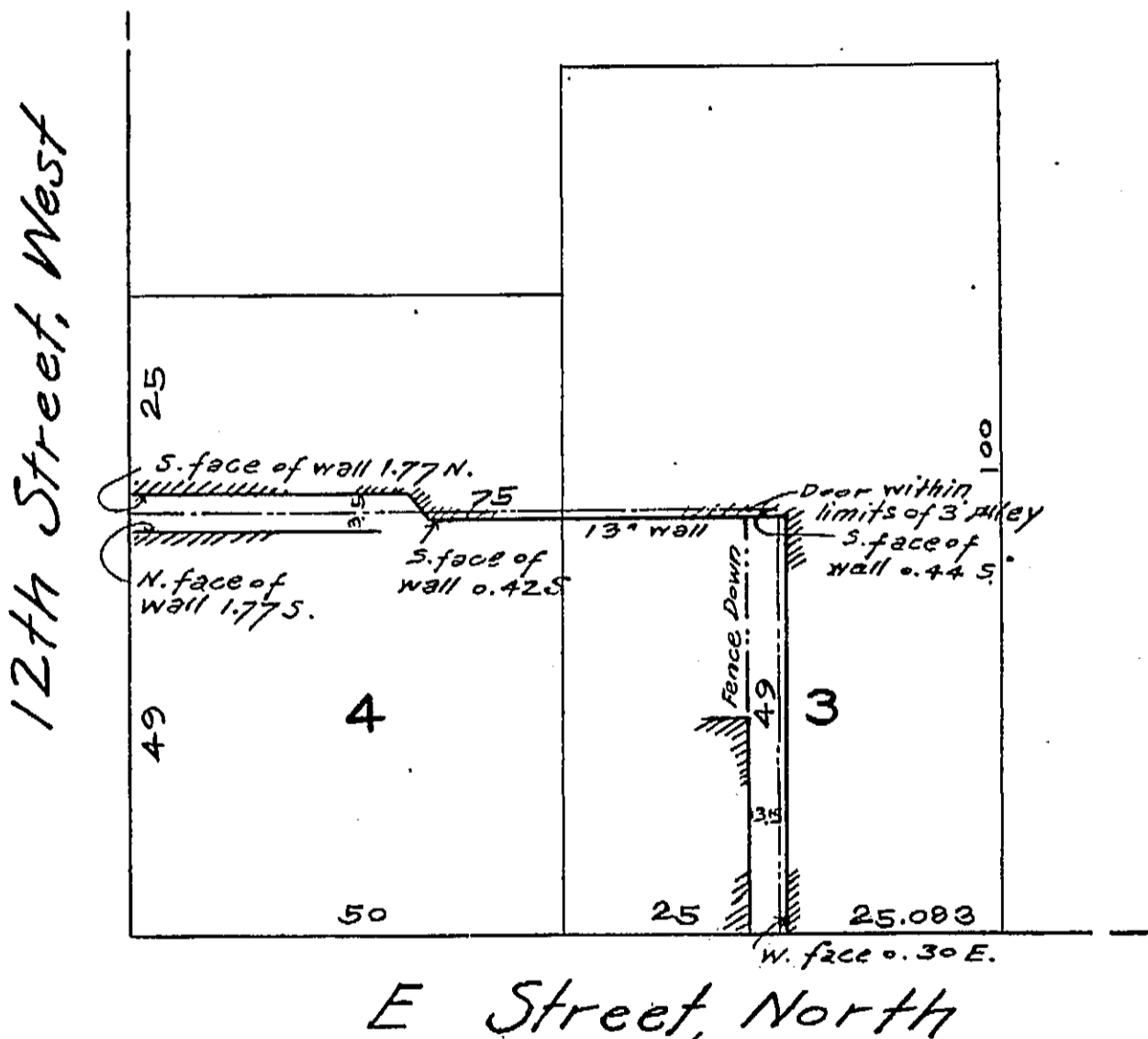
C O P Y

"Exhibit A"

Surveyor's Office,
District of Columbia,
Washington, February 19, 1907.
PLAT OF SURVEY of parts of lots 3 and 4, Square 321.

S.O. 6503
(Copy)
E.D. 63861

Filed Apr. 10, 1907.
(Signed) J.R. Young,
Clerk



1 in. - 20 ft.

I hereby certify, That the foregoing plat is correct in accordance with
Law and Record. Actual survey made this day of 190
for Wilson & Barksdale
(Signed) Wm. P. Richards
Surveyor, District of Columbia

19

Decree.

Filed June 21, 1907.

In the Supreme Court of the District of Columbia.

No. 26648. Equity.

ELIZABETH A. BRUNTHAVER

vs.

ELIZABETH R. TALTY.

This cause coming on for hearing, and after argument by counsel, it is thereupon by the court, this 21st day of June, A. D. 1907, adjudged, ordered and decreed that the bill be, and the same hereby is, dismissed with costs to be taxed by the clerk, and that the defendant have execution therefor as at law.

From the foregoing decree the complainant notes an appeal to the Court of Appeals, and the penalty of the costs bond is fixed at One hundred dollars.

HARRY M. CLABAUGH,
Chief Justice.

Memorandum.

July 8, 1907.—Appeal bond filed.

20 *Directions to Clerk for Preparation of Transcript of Record.*

Filed July 9, 1907.

In the Supreme Court of the District of Columbia.

Equity. No. 26648.

ELIZABETH A. BRUNTHAVER

vs.

ELIZABETH R. TALTY.

The Clerk in preparing the transcript of record for the Court of Appeals will copy the following documents:

1. Original bill.
2. Answer of defendant.
3. Replication.
4. Stipulation of counsel and Exhibit.
5. Sections 62 and 63 of the Building Regulations.
6. Memo.: Appeal bond filed and approved.

WILSON & BARKSDALE,
Solicitors for Complainant.

Stipulation as to Extracts from Building Regulations.

Filed July 12, 1907.

In the Supreme Court of the District of Columbia.

Equity. No. 26648.

ELIZABETH A. BRUNTHAVER

vs.

ELIZABETH R. TALTY.

21 It is hereby stipulated by and between counsel in the above entitled cause that the following extracts from the Building Regulations of the District of Columbia shall constitute a part of the record in this case on appeal, viz:

The fourth section of the Building Regulations, No. 1, approved by President Washington October 17, 1791, is recognized as in force, as follows:

SECT. 62. "That the person or persons appointed by the Commissioners to superintend buildings may enter upon the land of any person to set out the foundation and regulate the walls to be built between party and party, as to the breadth and thickness thereof, which foundation shall be laid equally upon the lands of the persons between whom such party walls are to be built, and shall be of the breadth and thickness determined by such person proper, and the first builder shall be reimbursed one moiety of the charge of such party wall or so much thereof as the next builder shall have occasion to make use of, before such next builder shall anyways use or break into the wall, the charge of value thereof to be set by the person or persons so appointed by the commissioners."

SECT. 63. Provided, "That the maximum thickness laid upon the adjoining lot shall be nine inches in the cellar, and that the set off shall be equal on both sides, and in all cases where a building is erected and party wall is constructed the party line shall be carefully preserved by receding four and one-half inches from the front with that portion that extends over that line," except in center of continuous block.

22 SECT. 103. No door or window openings shall be placed in party walls except by the consent of the adjoining owner and under special permit from the Inspector of Buildings.

WILSON & BARKSDALE,

Solicitors for Complainant.

J. J. DARLINGTON,

W. C. SULLIVAN,

Solicitors for Defendant.

23 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia*, ss:

I, John R. Young, Clerk of the Supreme Court of the District of Columbia, hereby certify the foregoing pages numbered from 1 to 22, both inclusive, to be a true and correct transcript of the record according to directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 26648, in equity, wherein Elizabeth A. Brunthaver is Complainant, and Elizabeth R. Talty is Defendant, as the same remains upon the files and of record in said Court.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at the city of Washington, in said District, this 19th day of August, A. D. 1907.

[Seal Supreme Court of the District of Columbia.]

J. R. YOUNG, *Clerk*,
By ALF. G. BUHRMAN,
Assistant Clerk.

Endorsed on cover: District of Columbia supreme court. No. 1822. Elizabeth A. Brunthaver, appellant, vs. Elizabeth R. Talty. Court of Appeals, District of Columbia. Filed Aug. 19, 1907. Henry W. Hodges, clerk.